

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Stanley Goldfarb, M.D.

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David S. Senoff, Esq., First Law Strategy Group, LLC 121
S. Broad St., Ste. 300, Phila., PA 19107

DEFENDANTS

Harrison A. Kalodimos, M.D.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Daniel S. Bernheim, 3d, Esq., Wilentz Goldman & Spitzer,
Two Penn Center, Ste. 910, Phila., PA 19102

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Recopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 1332, 1441, and 1446

Brief description of cause:
Defamation/Libel and Invasion of False Light Invasion of Privacy

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE _____

DOCKET NUMBER _____

DATE

Nov 13, 2020

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

4. A true and correct copy of the Philadelphia Action docket is attached hereto as Exhibit C.

5. On November 2, 2020, the Common Pleas Court entered a Case Management Order, a true and correct copy of which is attached hereto as Exhibit D.

6. The Complaint, filed on October 20, 2020, and served on October 24, 2020, was an initial pleading for purposes of § 1446(b) and was the first pleading, motion, order or other paper from which it could be ascertained that the action was removable. *See, e.g., Sikirica v. Nationwide Ins. Co.*, 416 F.3d 214, 223 (3d Cir. 2005) (holding “a writ of summons alone can no longer be the ‘initial pleading’ that triggers the 30-day period for removal under the first paragraph of 28 U.S.C. § 1446(b)”).

7. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 in that the real parties which are not fraudulently joined or nominal parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

8. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the Philadelphia Action docket is attached hereto as Exhibit C, and true and correct copies of all process, pleadings and orders received by Defendant are attached hereto as Exhibits A through D.

This Notice is Timely Filed in Accordance With § 1446

9. This Notice of Removal is timely because it is filed within thirty (30) days of the date on which removing defendant, Dr. Kalodimos, received an initial pleading, motion, order or other paper from which it could be ascertained that the action was removable. 28 U.S.C. § 1446(b).

10. Further, this Notice of Removal is being filed within one year of the commencement of this action by plaintiff on May 28, 2020. 28 U.S.C. § 1446(b).

Diversity of Citizenship

11. As set forth more fully below, complete diversity of citizenship exists between the Plaintiff and the Defendant.

12. This diversity of citizenship existed at the time this action was commenced on May 28, 2020, and continues to the time of the filing of this Notice of Removal.

13. It is believed and therefor averred that at the time this action was commenced, at the time Plaintiff's Complaint was filed, and at the time this Notice of Removal is being filed, Plaintiff was and is a citizen of the Commonwealth of Pennsylvania, residing at 801 Muirfield Road, Bryn Mawr, Pennsylvania 19010. *See* Docket, Ex. C.

14. At the time this action was commenced, at the time Plaintiff's Complaint was filed, and at the time this Notice of Removal is being filed, Defendant was and is a citizen of the State of Washington, residing at 3874 Scott Lane, Gig Harbor, Washington 98335. *See* Docket, Ex. C.

15. "A natural person is deemed to be a citizen of the state where he is domiciled." *Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010) (citations omitted).

16. There is and has been, since the date Plaintiff commenced this civil action, complete diversity of citizenship between Plaintiff (a citizen of the Commonwealth of Pennsylvania) and Defendant (a citizen of the State of Washington).

Amount in Controversy

17. A reasonable reading of the Plaintiff's claims as set forth in the Complaint demonstrates that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

18. Specifically, Plaintiff has alleged that as a result of Defendant's alleged false written statements, knowing and/or reckless conduct, and willful and malicious defamation:

(a) Plaintiff was injured in his business trade and/or profession;

- (b) Criminal behavior has been “imputed” to Plaintiff;
- (c) “Plaintiff has suffered irreparable damage to his reputation, as well as embarrassment and humiliation[;]”
- (d) Others have been lead to believe that Plaintiff “was unprofessional, a liar, and that he was shielding the University of Pennsylvania from accusations of sexual harassment and racial discrimination[;]” and
- (e) Plaintiff has suffered “loss of credibility as a professor of medicine and as a physician[.]” among other unspecified damages.

See Complaint, Ex. B, at ¶¶ 53-56, 59, 62.

19. Plaintiff has alleged knowing, intentional, malicious, reckless, and willful conduct by Defendant, *see id.* at ¶¶ 53-56, 59, 62, for which he seeks actual damages in excess of \$50,000.00, plus attorney’s fees and exemplary and punitive damages. *Id.* at pp. 12-13.

20. In determining the amount in controversy, the Court must first look to the complaint to assess the damages demanded by the plaintiff. If the complaint is open-ended and does not allege a specific amount, the court must perform an independent appraisal of the value of the claim. The amount in controversy “is not measured by the low end of an open-ended claim, but rather by a reasonable reading of the value of the rights being litigated.” *Angus v. Shiley Inc.*, 989 F.2d 142, 145-46 (3d Cir. 1993); *see* 28 U.S.C. § 1446(c); *Tuckey v. Intermatic, Inc.*, 2014 U.S. Dist. LEXIS 8952, *6-7 (M.D. Pa. Jan. 24, 2014).

21. Where a plaintiff has not specifically demanded a sum in excess of the jurisdictional limits in the initial pleading, removal of the action is proper “if the district court finds, by the preponderance of the evidence, that the amount in controversy exceeds” the jurisdiction threshold. 28 U.S.C. § 1446(c)(2)(B).

22. Notwithstanding Defendant's contest thereof, considering the nature of Plaintiff's claimed damages and the claimed economic impact of the conduct alleged, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

23. Therefore, as to said claims and causes of action of Plaintiff, jurisdiction is vested in this Court and Defendant is entitled to removal. 28 U.S.C. §§ 1332 and 1441.

24. Venue is properly laid in this district pursuant to 28 U.S.C. § 1441(a).¹

25. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff, the only other party to this action, and a certified copy will be filed with the Court of Common Pleas of Philadelphia County, Pennsylvania.

WHEREFORE, this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) based on the complete diversity of citizenship between the Plaintiff and the Defendant, and removal pursuant to 28 U.S.C. § 1441(a) is appropriate.

Respectfully submitted,

WILENTZ, GOLDMAN & SPITZER, P.A.

Date: November 12, 2020

BY: ***Daniel S. Bernheim***

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¹ Defendant does not concede that this court has personal jurisdiction over the Defendant or that venue in Pennsylvania is proper. Defendant merely acknowledges that under 28 U.S.C. § 1441(a), this is "the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C.A. § 1441(a).